



POLICE DEPARTMENT CITY OF NEW YORK

December 19, 2016

**MEMORANDUM FOR:** Police Commissioner

Re: Police Officer Javier Velazquez  
Tax Registry No. 940831  
9 Precinct  
Disciplinary Case No. 2016-15136  
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**Charges and Specifications:**

1. Said Police Officer Javier Velazquez, while assigned to the 9th Precinct, on or about August 28, 2015, while on-duty, was discourteous to on-duty New York City Police Department Sergeant Jamie Gifkins in that, when responding to said Sergeant's question as to why he was late for his scheduled tour, said Police Officer replied in a discourteous manner.  
P.G. 203-09, Page 1, Paragraph 2 – PUBLIC CONTACT – GENERAL –  
GENERAL REGULATIONS
2. Said Police Officer Javier Velazquez, while assigned to the 9th Precinct, on or about August 28, 2015, while on-duty, after having been directed by New York City Police Department Sergeant Jamie Gifkins to report to his assigned post, wrongfully failed and neglected to comply with said direction.  
P.G. 203-03, Page 1, Paragraph 2 – COMPLIANCE WITH ORDERS  
P.G. 203-05, Page 1, Paragraph 1 – GENERAL REGULATIONS  
PERFORMANCE ON DUTY – GENERAL – GENERAL REGULATIONS
3. Said Police Officer Javier Velazquez, while assigned to the 9th Precinct, on or about August 28, 2015, while on-duty, wrongfully failed and neglected to make Activity Log entries as required.  
P.G. 212-08, Page 1, Paragraph 1 – ACTIVITY LOGS – COMMAND  
OPERATIONS
4. Said Police Officer Javier Velazquez, while assigned to the 9th Precinct, on or about December 3, 2015, while on-duty, was discourteous to on-duty New York City Police Department Lieutenant Daniel Brown in that said Police Officer spoke in a discourteous or threatening manner to said Lieutenant about having his platoon or tour changed.  
P.G. 203-09, Page 1, Paragraph 2 – PUBLIC CONTACT – GENERAL –  
GENERAL REGULATIONS

5. Said Police Officer Javier Velazquez, while assigned to the 9th Precinct, on or about August 28, 2015, while on-duty, was discourteous to on-duty New York City Police Department Sergeant Jamie Gifkins in that, when responding to said Sergeant's question as to why he was late in returning to his Command from a detail, said Police Officer discourteously replied to said Sergeant.

P.G. 203-09, Page 1, Paragraph 2 – PUBLIC CONTACT – GENERAL –  
GENERAL REGULATIONS

**Appearances:**

For the Department: Samuel Yee, Esq.  
Department Advocate's Office  
One Police Plaza, 4th Floor  
New York, NY 10038

For Respondent: John P. Tynan, Esq.  
Worth, Longworth & London, LLP  
111 John Street, Suite 640  
New York, NY 10038

**Hearing Date:**

June 21, August 12 and September 14, 2016

**Decision:**

Guilty

**Trial Commissioner:**

ADCT David S. Weisel

**REPORT AND RECOMMENDATION**

The above-named member of the Department appeared before the Court on June 21, August 12 and September 14, 2016. Respondent, through his counsel, entered a plea of Not Guilty to the subject charges. The Department called Sergeant Jamie Gifkins, Sergeant Kwame Pascal and Lieutenant Daniel Brown as witnesses. Respondent called Lieutenant Angelique Olachea as a witness and Respondent testified on his own behalf. A stenographic transcript of the trial record has been prepared and is available for the Police Commissioner's review.

## **DECISION**

After reviewing the evidence presented at the hearing, and assessing the credibility of the witnesses, the Court finds Respondent Guilty.

## **FINDINGS AND ANALYSIS**

This case involves a series of disputes on two separate dates between Respondent and his supervisors. It was undisputed that Respondent had been assigned to the 9 Precinct in the East Village, fairly recently as of the dates of the two incidents. As set forth by Respondent's counsel in his opening statement, Respondent had been involved in some kind of incident while assigned to his prior command. According to counsel, the supervisors at the 9 Precinct were informed that Respondent was a "problem child" and "decided to make his life miserable as possible" (Tr. 7). It was also undisputed that Respondent had childcare problems that were exacerbated if he was assigned to the second platoon as opposed to the third. At the time of both incidents, Respondent was assigned to the second platoon because, supervisors had alleged, he had an inappropriately friendly relationship with the third platoon commander.

It was further undisputed that on August 28, 2015, Respondent was about an hour late to work due to the childcare problems and the sectors already had been sent into the field. The desk sergeant, Sergeant Jamie Gifkins, alleged that when he asked Respondent why he was late, he gave a discourteous reply that it was due to childcare issues. It was further undisputed that Gifkins then assigned Respondent to the City Hall security detail. Shortly after Respondent arrived at City Hall, Gifkins notified him to return to the 9 Precinct because it turned out he did need him for a sector.

It was further undisputed it took Respondent over an hour to return from City Hall to the stationhouse on East 5th Street between First and Second Avenues. Gifkins alleged that when he asked Respondent what took him so long, Respondent discourteously answered along the lines

of, "You could have sent me a car." Respondent testified that he merely stated he was waiting for an RMP to pick him up. In any event, at that point it was uncontested Gifkins was annoyed and gave Respondent a traffic post. The Department alleged that Respondent refused to take the assignment. Respondent admitted that he was upset at what he perceived to be a punishment post, but denied refusing to take the assignment.

It was further undisputed that on December 3, 2015, Respondent approached Lieutenant Daniel Brown, the administrative lieutenant, to see if anything could be done about a tour change. The Department alleged that Respondent addressed Brown in a threatening manner, saying that if anything happened to Respondent's daughter, Respondent was "coming after" Brown and the rest of the precinct. Respondent denied that he spoke to Brown in this way, and merely said that he would hold the Department legally responsible.

**SERGEANT JAMIE GIFKINS** testified that he was assigned to the 9 Precinct, usually with the task of patrol supervisor. Respondent was not in Gifkins's squad but he might have supervised him on patrol before. Gifkins never had issued Respondent a command discipline or placed him in the minor violations log (Tr. 9-11, 33).

Gifkins testified that on August 28, 2015, he was assigned as the desk officer on the second platoon. Respondent was not present at roll call and arrived about 45 minutes to an hour late. Gifkins was at the desk at this time and asked Respondent why he was late. According to Gifkins, Respondent gave "a curt response of something along the lines of his kids." Respondent was irritated that Gifkins was even asking. Gifkins assigned Respondent to the City Hall security detail, a post generally filled by the precincts of Manhattan South (Tr. 9-13, 20-24, 38).

A little less than an hour later, Gifkins testified, he needed Respondent to return to the command and be assigned to a sector as they were short on personnel. Gifkins did not have Respondent's phone number, but did have it for another officer also assigned to the City Hall

detail. Gifkins contacted that officer and directed him to give Respondent the message. Gifkins conceded that he did not know how long it took the other officer to relay the message, other than that the other officer said it was "fairly immediately" when Gifkins asked him about it afterward (Tr. 13-14, 24-26, 40).

Gifkins testified that although Respondent could have taken the 6 subway line to the Astor Place station, it actually took him approximately an hour and 45 minutes to return to the command. When Gifkins, again behind the desk, asked him what took him so long, Respondent answered, "curt and nasty" and "irritated . . . Well, you could have sent me a car." Gifkins asserted at trial that he could walk the distance in 20 minutes and the subway trip would have taken 15, but he cautioned that this was a "ballpark" figure. Gifkins added that all officers are provided with Department-issued MetroCards and are expected to have them on their person while on duty (Tr. 14-15, 34-37, 41; see Patrol Guide § 219-26, Purpose & ¶16).

At that point it was 1100 hours. The sector already had been filled. Gifkins directed Respondent to "[p]ut on his hat and go direct traffic" at Second Avenue and Houston Street. Gifkins acknowledged at trial that while the post was genuinely necessary due to dangerous traffic conditions at that intersection, it was more a punishment post, due to its relative isolation from other officers and resources. There were nevertheless worse posts in the precinct. The post did not require Respondent to generate activity or direct traffic unless there was a problem, and it was more to act as a police presence. In any event, Gifkins testified that Respondent answered him, "I'm not doing that." Gifkins again gave him the order and Respondent again refused. At that moment, Lieutenant Daniel Brown, the administrative lieutenant, got off the elevator and observed the interaction. Brown questioned Respondent whether he was refusing a lawful order and ordered him to take the post. Respondent answered, in sum and substance, that he would go

there but would not direct traffic. He then left for the post (Tr. 10, 15-17, 19, 30-32, 37-38, 41-43).

LIEUTENANT DANIEL BROWN, the admin lieutenant, testified that Respondent arrived at the 9 Precinct after a transfer from the 23 Precinct. Brown asserted that he did not know why Respondent had been transferred out of a command in Manhattan North. Brown stated that he never had imposed any discipline against Respondent. Brown testified, however, that Respondent originally was assigned to the third platoon. Respondent was reassigned to the second platoon at the commanding officer's direction, a decision in which Brown was "part of the discussions." In the spring or summer of 2015, there was an allegation that Respondent [REDACTED] [REDACTED] or [REDACTED] [REDACTED] third platoon commander, Lieutenant Angelique Olachea. Brown himself had observed things like preferential treatment, tour changes and the like. The allegation was found to be unsubstantiated by the Manhattan South Investigations Unit but Respondent was not returned to the third platoon. Brown was aware that Respondent lived in either [REDACTED] or [REDACTED] County and had childcare issues. Day tours also gave Respondent a lower effective pay rate. Respondent wanted to return to the third platoon (Tr. 72-73, 85, 88-94, 121-23, 126-28, 131-34).

On August 28, 2015, Brown testified, Gifkins notified him that he was post-changing Respondent from the City Hall detail to a sector within the 9 Precinct. When Respondent returned, he approached the sergeant and said, in a loud and demeaning way, "Gifkins, it would have been nice if you could have sent me a car to pick me up." At that, Gifkins changed his mind and post-changed Respondent again to a foot post on Houston Street and Second Avenue. Brown admitted that this could be seen as a punishment post, but it also was a valid post due to the high number of accidents at that location. Brown noted that the presence of a uniformed officer at the intersection effectively calmed traffic. Respondent, however, told Gifkins, "That's

not going to happen," or "I am not going to do that." Gifkins was taken aback and reinstructed Respondent. Brown also instructed Respondent and asked him if he was refusing a lawful order. Respondent walked away, went upstairs to calm down, and then proceeded to his post (Tr. 72-76, 102-03, 111-13, 117-20, 124-25).

Brown reviewed Respondent's activity log for August 28, 2015. There were no entries for Respondent's arrival at the City Hall detail, for when he got back to the 9 Precinct, or when his tour ended. There were entries for when he was notified to return to the 9 Precinct and for when he was assigned the Houston Street post (see Dept. Ex. 1, activity log; Tr. 78-80, 120-21).

On December 3, 2015, Brown testified, around 0800 hours, he got onto the elevator at the 9 Precinct and encountered Respondent. Brown said good morning but did not get a response. When they got to the first floor, Respondent asked Brown, in a "very serious and aggressive" manner, if they could speak privately. Brown suggested the radio room and he and Respondent entered. In a "loud, aggressive manner, very disrespectful," Respondent told Brown that "he needs my help" regarding his assignment to the second platoon. Respondent indicated that his daughter got on the school bus at 0900 hours, and that if anything happened to her, Respondent "is coming after everyone in this command." Respondent pointed his finger at Brown, backing him up in the small room, and said he "better fix this." Brown told Respondent that the two of them could discuss the matter later with the commanding officer but Respondent was not assuaged. Brown ordered him to take his post and Respondent complied (Tr. 80-85, 93-97, 124).

Brown conceded that this was a foot post on Avenue D, about as far from the stationhouse one could get. This was even though Respondent was one of the more senior officers on the platoon, and senior officers generally were assigned to sectors. They could be assigned to foot posts as well. Brown testified that he had no role in assigning Respondent's post that day (Tr. 102-09).

On December 3, 2015, **SERGEANT KWAME PASCAL** was assigned to the 9 Precinct as the desk officer on the second platoon. Pascal first was assigned to the command in September 2015. He never had issued Respondent any command disciplines or placed him in the minor violations log. In fact, Pascal was unfamiliar with the officer (Tr. 45-47, 54, 64-65).

On the day in question, around 0800 hours, after roll call, Pascal observed Respondent approach Brown at the desk and ask to have a private conversation. He saw them walk to the radio or battery room several feet from the desk. The door to the room was not closed but the room was empty. Pascal heard Brown ask, in an "escalated tone," if Respondent "threatened him or was he threatening him." Brown then twice ordered Respondent to take his post and said they would discuss "this" later. Respondent left the precinct, saying "You better fix this, you better fix this," in an upset manner. Brown returned to the desk and also seemed a little upset. In Pascal's estimation, Brown normally was very calm and pleasant (Tr. 47-53, 55, 57-62, 64-65).

**LIEUTENANT ANGELIQUE OLAECHEA** testified that Respondent had been her operator on the third platoon. She asserted that he was "just a member of the service," [REDACTED] [REDACTED] (Tr. 208-09, 220-21).

After Respondent's transfer to the second platoon, Olachea kept in touch with him. She approached the commanding officer on his behalf concerning the childcare issue, but he declined to make a change, saying "he has to watch" Respondent. In fact, Respondent often complained to Olachea about his assignments and she confronted various supervisors on his behalf. When Olachea arrived for her tour around 1445 hours on December 3, 2015, Respondent informed her that he had been placed on a punishment post at Houston Street and the FDR Drive, a quite isolated spot. Olachea nonetheless testified that "[t]here is no such thing as a punishment post," and that the Patrol Guide forbade such posts for "something personal" like discourtesy to a supervisor, even for disobeying orders. Olachea also volunteered that on December 4, 2015,



Respondent was assigned to "a solo RMP that was out of service in an accident with broken side-view mirrors and he said I can't [d]rive this car. They said just take it" (Tr. 209-14, 221-24).

Olaechea testified that she tried to have Respondent returned to the command on December 3, 2015, but the integrity control officer said that if she did that, he would issue Respondent a command discipline. Olaechea then complained to her delegate and asked "if he can please 10-2 him and put him on meal because Officer Velazquez was denied a meal the whole day as well when it was almost three o'clock" (Tr. 214-17).

RESPONDENT testified that he previously was assigned to the 23 Precinct until his reassignment to the Manhattan Court Section. From there he was assigned to the 9 Precinct, sometime in early 2014. He was told by the integrity control officer at the time, upon being reassigned to the second platoon, that he was a "problem child" and needed to be more carefully monitored, on the day tour. Respondent testified that he had not received any command disciplines while on the third platoon (Tr. 162-65).

Respondent testified that he lived in [REDACTED] County with his wife and four children. The youngest, his daughter, was elementary school-age and the older ones were teenagers. When he was assigned to the third platoon, he helped get his children to school and his wife went to work. After he left for work in the afternoon, his older children would come home and be there when his daughter arrived home. Respondent denied [REDACTED] and said that the change in tours caused an immense hardship. His daughter was supposed to be on the school bus at 0745 hours. Now she had to walk there by herself and this worried Respondent. Respondent asked his supervisors for help but "everything was disregarded" (Tr. 167-72, 190).

On August 28, 2015, Respondent was late for work due to taking care of his daughter. He put her on the bus and got to work close to 0900 hours. Gifkins told Respondent that he had

the City Hall detail and he got dropped off there by another officer. He was at City Hall for about an hour until he was told by a sergeant there that he was to return to the 9 Precinct (Tr. 172-75, 193).

Respondent contacted Gifkins and told him that he needed a ride back. Gifkins told Respondent to "try to find a way to get back or take the train." Respondent admitted that he waited over an hour for a sector from the 9 Precinct to pick him up. He admitted that the sector told him they were handling a job with an emotionally disturbed person and he would have to wait. Respondent claimed at trial not to know how long it would take to go from City Hall to Astor Place on the subway, but admitted it was about a 15-minute walk from Astor Place to the stationhouse. He admitted that he carried his Department-issued MetroCard while on duty. He did not take the train that day because he was concerned about officer safety being solo and unable to use his radio (as Transit Bureau radios operate on different frequencies) (Tr. 175-76, 196, 206).

When Respondent got back to the 9 Precinct, he testified, Gifkins asked him what took him so long. Respondent replied that he was waiting for a ride. Gifkins told him to put on his hat and take the Houston Street and Second Avenue traffic foot post. Respondent conceded that he asked Gifkins why his post was being changed, but denied speaking loudly. Respondent conceded that he was frustrated and worried about his childcare situation and might have refused the assignment at first. He did not recall saying that he would take the post but not direct traffic, but it was possible he made this admission in his official Department interview. Respondent admitted at trial that Brown "did come after and was standing after he was instructing me to go to post." Brown "got bothered" and also ordered him to take the assignment. Respondent admitted at trial that his activity log was missing entries for when he arrived at and left City Hall, as well as when he returned to the 9 Precinct (Tr. 176-81, 192-95).

On December 3, 2015, Respondent asked Brown if they could have a private conversation. Brown took him to the radio room, where Respondent asked him for help getting a tour change. Respondent testified that Brown “tended to be bothered by it,” as though he did not want to get involved. Even though Respondent was begging and pleading with Brown, he told Respondent in a “pretty loud” voice to “get the fuck out of my face.” Brown then “asked” Respondent to take his post. Respondent conceded that he told Brown “if anything, God forbid, happened to [his] daughter, [he] would come and sue the Department.” Prior to this, Respondent had no problems with Brown (Tr. 184-87, 198).

**Specification Nos. 1 & 5**

The first and fifth specifications allege that Respondent was discourteous to Gifkins when answering why he was late for his tour and why he was late returning from the City Hall detail, respectively. For several reasons, the Court credits Gifkins for his testimony about Respondent’s curt and angry responses. First, although there was testimony that the supervisors at the 9 Precinct treated Respondent like a “problem child” – he was transferred there out of patrol borough with a stop first at the Manhattan Court Section (see Confidential Mem., *infra*) – there was uncontested testimony that Gifkins had little familiarity with Respondent. Second, Respondent admitted that he was frustrated about the childcare situation. In that light, it is credible that Respondent would have given responses like “I have kids” and “You could have sent me a car” when Gifkins asked why he was late.

Third, Respondent’s conduct on the day in question with regard to getting back to the 9 Precinct was unreasonable and reflects poorly on his credibility. The Department is not a taxi service. It was not the job of another sector to go out of service, leave the precinct, pick up Respondent and return him to the command. Their response to him – they were handling an EDP and Respondent would have to wait – should have clued him in. He could have walked,

much less taken the subway, in less time than it took that sector to retrieve him. Finally, in light of the danger that all members of the service face while in uniform, the Court does not find Respondent's reasons for not taking the subway to be compelling.

Finally, Respondent implied that the August 28, 2015, charges were retaliatory due to his subsequent filing of an Office of Equal Employment Opportunity complaint. Olachea contended that she confronted Gifkins about the incident the next day and he said not to worry about it, that it was water under the bridge (Tr. 212). Gifkins, however, credibly testified that he was unaware of this filing, and Respondent testified that he did not name Gifkins as a respondent (Tr. 28-30, 181). Moreover, the Court did not find Olachea to be a credible witness. Her testimony revealed that she did, in fact, have some favoritism toward Respondent and treated him like someone to be protected. In any event, in light of the fact that personnel in a precinct ultimately have to get along with each other, calling the incident water under the bridge did not preclude Gifkins finding Respondent to have been discourteous and the incident worthy of discipline.

In sum, the Court finds Respondent Guilty of Specification Nos. 1 and 5.

### **Specification No. 2**

In the second specification, Respondent is charged with refusing to take the traffic post at Houston Street and Second Avenue. It was indicated even by the Department witnesses that this was at least in part a punishment post for the problems Respondent had caused that day. Respondent conceded that he was frustrated and worried about his childcare situation and might have refused the assignment at first. He did not recall saying that he would take the post but not direct traffic, but said it was possible he made this admission in his official Department interview. In light of these admissions, the Court credits the testimony of Gifkins that Respondent initially refused to take his post. As such, Respondent is found Guilty.

**Specification No. 3**

The third specification alleges that Respondent was missing entries in his activity log for August 28, 2015. Brown stated that there were no entries for Respondent's arrival at the City Hall detail, for when he got back to the 9 Precinct, or when his tour ended. Respondent conceded in his testimony that he was missing entries for when he arrived at and left City Hall, as well as when he returned to the 9 Precinct stationhouse. On this basis, Respondent is found Guilty of Specification No. 3.

**Specification No. 4**

The fourth specification concerns the conversation that Brown and Respondent had in the radio room on December 3, 2015. The Department alleges that Respondent was discourteous to Brown in that Respondent "spoke in a discourteous or threatening manner" to Brown about a change of tour or platoon.

Brown alleged that Respondent was both discourteous and threatening by speaking in a loud, aggressive and disrespectful way. Brown also felt threatened by Respondent's statement that if something happened to his daughter, he was "coming after everyone in this command." According to Brown, Respondent also discourteously pointed his finger at Brown and said, "You better fix this." Respondent, however, said that he was begging and pleading with Brown, but in a soft voice. He did say that if anything happened to his daughter he would sue the Department.

Here, there was an independent witness, Pascal, the desk officer, who was standing nearby the radio room, itself off to the side of the desk. Pascal was relatively new to the precinct, having only been there a few months. He could not have been one of the supervisors [REDACTED] Respondent and Olacchea, leading to the tour change. In fact, Pascal barely knew Respondent. Pascal testified that he heard Brown ask if Respondent was threatening him and twice order Respondent to take his post. Pascal also

observed Respondent say, "You better fix this, you better fix this," as he left the precinct. Respondent was very upset. In Pascal's view, Respondent was speaking unprofessionally (Tr. 51-52).

In the tribunal's view, Respondent's statement to Brown was not "threatening." In context, he meant only that if something happened to his daughter on the walk to school, he would take legal action against the Department. He already had taken some action, like an EEO complaint, and would later take steps toward filing a federal lawsuit (Tr. 199-204).

The specification, however, reads that Respondent was "threatening or discourteous." Pascal's credible and independent testimony proves that Respondent was discourteous by walking away from Brown while warning, "You better fix this." This is an improper way to speak to a supervisor in this Department. As such, Respondent is found Guilty.

### **PENALTY RECOMMENDATION**

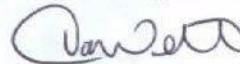
In order to determine an appropriate penalty, Respondent's service record was examined. See Matter of Pell v. Board of Educ., 34 N.Y.2d 222, 240 (1974). Respondent was appointed to the Department on January 9, 2006. Information from his personnel record that was considered in making this penalty recommendation is contained in an attached confidential memorandum.

The Department recommended a penalty of the forfeiture of 30 vacation days and the placement on one year of dismissal probation. Respondent was discourteous to his supervisors on two occasions. On one of these dates, Respondent refused, albeit briefly, to take his post. Respondent also has a prior disciplinary history indicating issues of temperament and mixing personal issues with professional conduct (see Confidential Mem., *infra*).

As such, the Court recommends that Respondent be **DISMISSED** from the New York City Police Department, but that his dismissal be held in abeyance for a period of one year, pursuant to Administrative Code §14-115 (d), during which time he is to remain on the force at

the Police Commissioner's discretion and may be terminated at any time without further proceedings. The Court further recommends that Respondent forfeit 30 vacation days. See Case Nos. 2010-3196 & 2012-8544 (Mar. 4, 2015) (25 days and one year of dismissal probation for officer who, inter alia, was off post, told a sergeant, "Let the games begin" when he ordered her to process an arrest, and told a lieutenant, "That's not my job" when he instructed her on greeting precinct visitors while assigned as telephone switchboard operator).

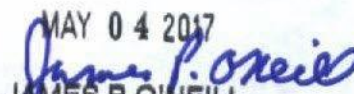
Respectfully submitted,



David S. Weisel

Assistant Deputy Commissioner Trials

**APPROVED**

MAY 04 2017  
  
JAMES P. O'NEILL  
POLICE COMMISSIONER



POLICE DEPARTMENT CITY OF NEW YORK

From: Assistant Deputy Commissioner Trials

To: Police Commissioner

Subject: CONFIDENTIAL MEMORANDUM  
POLICE OFFICER JAVIER VELAZQUEZ  
TAX REGISTRY NO. 940831  
DISCIPLINARY CASE NO. 2016-15136

Respondent was appointed to the Department on January 9, 2006. For his last three performance evaluations, he received a 4.0 overall rating of "Highly Competent" in 2014 and 3.5 ratings of "Highly Competent/Competent" in 2012 and 2013. [REDACTED]

In 2010, Respondent pleaded guilty to: (i) approaching a male with his firearm drawn and questioning him about his [REDACTED] whereabouts; (ii) failing to remain at the scene of this unusual police occurrence; (iii) failing to request the response of a patrol supervisor; and (iv) impeding the official Department investigation into this incident. Respondent forfeited 40 vacation days and agreed to cooperate with [REDACTED]. In connection with this incident, he was modified from October 9, 2008, to May 11, 2012. He was modified a second time from September 3, 2013, to February 20, 2014, in connection with a [REDACTED].

Respondent was placed on Level 2 Discipline Monitoring from September 16, 2009, to August 2, 2012, and again beginning on March 3, 2016. That monitoring remains ongoing.

For your consideration.

David S. Weisel  
Assistant Deputy Commissioner Trials